SUPREME COURT OF THE UNITED STATES.

No. 18.

STEPHEN LINDSEY ET AL., PLAINTIFFS IN ERROR,

VERSUS

LESSEE OF THOMAS B. MILLER.

IN ERROR TO THE CIRCUIT COURT U. S. FOR THE DISTRICT OF OHIO.

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Pleas begun and held at the court-house in Columbus, on Monday, the thirteenth day of July, in the year of our Lord one thousand eight hundred and twenty-nine, and of the independence of the United States the fifty-fourth, before the Honorable John McLean and John W. Campbell, Judges of the circuit court of the United States in and for the seventh circuit and district of Ohio.

THE LESSEE OF THOMAS B. MILLER, *plff.*
vs.
STEPHEN LINDSEY ET AL., *defts.* } *Ejectment.*

Be it remembered that, heretofore, to wit, at the July term of said court, in the year of our Lord one thousand eight hundred and twenty-six, came John Stiles, on the demise of Thomas B. Miller, by Charles Hammond, his attorney, and filed in the clerk's office of said court his certain declaration in ejectment, against Stephen Lindsey, John Hedges, David John, Solomon Beckilhamer, and Richard Ayres, tenants in possession, which is in the words and figures following, to wit:

United States' 7th circuit court, Ohio district.—June term, in the year of our Lord eighteen hundred and twenty-six.—Ohio district, ss.

John Stiles, a citizen of, and resident in, the State of Kentucky, by Charles Hammond, his attorney, complains of Thomas Nokes, a citizen of, and resident in, the State of Ohio, in custody, &c., of a plea of trespass, with force and arms, and for that whereas one Thomas B. Miller, a citizen of, and resident in, the State of Kentucky, on the first day of January, in the year of our Lord eighteen hundred and twenty-six, at the county of Clermont, on the Ohio river, near the line of the county of Hamilton, in said district, and within the jurisdiction of this court, had demised, granted, and to farm let to the said John Stiles, all that tract or parcel of land, situate, lying, and being partly in said county of Clermont, and partly in said county of Hamilton, and known and designated as entry No. 12,495, of 450½ acres, in the name of Thomas B. Miller, in the Virginia military district; also, five hundred acres of wood land, five hundred acres of arable land, five hundred acres of pasture land, five hundred acres of land covered with water, and five hundred acres of other land, all lying and being in said county of Clermont, and said county of Hamilton, at the mouth of Muddy creek, on the Ohio river, with the appurtenances: to have and to hold the premises aforesaid, with the appurtenances, to the said John Stiles, and his assigns, for and during the full end and term of twenty-one years from thence next following, and fully to be complete and ended; by virtue of which said demise, the said John Stiles entered into the premises aforesaid, and was thereof possessed, until the said Thomas Nokes, afterwards, to wit, on the first day of April, in the year last aforesaid, and at the county aforesaid, and within the jurisdiction aforesaid, with force and arms, entered into the premises aforesaid, with the appurtenances, which the said Thomas B. Miller demised to the said John Stiles in manner aforesaid, and for the term aforesaid, which is not yet expired, and ejected the said John Stiles from his said farm, and other wrongs to the said John Stiles then and there did, against the peace, and to the damage of the said John Stiles five thousand dollars; and therefore he brings suit, &c.

C. HAMMOND, *att'y for plff.*

GENTLEMEN: I am informed that you are in possession of, or claim title to, the premises in the within declaration of ejectment named, or to some part thereof; and I being sued in this action as casual ejector, and having no claim or title to the same, do advise you that you appear in the United States' circuit court for the seventh circuit and district of Ohio, on the first day of the next term, by some attorney of that court, and then and there, by a rule to be made of said court, you cause yourselves to be made defendants in my stead, otherwise I shall suffer judgment to be entered against me by default, and you will be turned out of possession.

Your friend,
THOMAS NOKES.

To STEPHEN LINDSEY,
JOHN HEDGES,
DAVID JOHN,
SOLOMON BECKILHAMER,
RICHARD AYRES.

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Circuit court United States, seventh circuit, and district of Ohio—State of Ohio, Ross county, ss.

Personally appeared before me, the subscriber, a justice of the peace in and for the county aforesaid, Philo N. White, who maketh oath and saith that he, this deponent, did, on the 20th day of May last past, deliver a true copy of the aforesaid declaration, and of the notice thereunder written, to the son of Stephen Lindsey, in the presence of his family, at his house on the premises; and that he also, on the same day, delivered a true copy of said declaration and notice to the wife of John Hedges, at said Hedges' house, on another part of the premises; and saw him, said Hedges, on the land, and explained to him the nature of the suit, &c.; and that he also, on the same day, delivered to David John a copy of said declaration and notice, at his house, on a part of the premises; and on the same day, delivered to Solomon Beckilhamer, on the premises, at his house, a true copy of said declaration and notice; and, also, delivered to Richard Ayres, at his own house, on the same day, a true copy of said declaration and notice thereunder written; and at the same time of delivering each of the copies to the aforesaid parties, read the notice thereunder written to each person on whom service was made as aforesaid, and informed each of them that it was a declaration in ejectment; and unless he or they appeared by some attorney of said court, on the first day of said term of said court, and cause himself or themselves to be made defendants by a rule of said court, in the room of the casual ejector Thomas Nokes, judgment would be entered against him or them by default, and that he or they would be turned out of possession, or words to that effect.

P. N. WHITE.

Sworn and subscribed to before me, the undersigned, a justice of the peace for the county aforesaid, this third day of June, A. D. 1826.

PETER PATTERSON, *J. P.* [SEAL.]

And thereupon, Stephen Lindsey, John Hedges, David John, Solomon Beckhilhamer, and Richard Ayres, on whom the notice in this cause, together with a copy of the declaration, has been duly served, as appears by the affidavit of Philo N. White, more than ten days before the commencement of the present term, being thrice solemnly called, came not, nor does he, in any manner, defend this suit; and Thomas Nokes, the casual ejector, being also called, and not appearing, it is therefore ordered that, unless the said Thomas Nokes, or the person or persons under whom he claims, or some or one of them, shall appear here to the declaration aforesaid, at or before the next term, and make himself, herself, or themselves defendant or defendants in the room of the now defendant, plead not guilty, and confess the lease, entry, and ouster in the declaration supposed, and agree to insist upon the title only at the trial, judgment by default will be entered at the next term against the casual ejector. And afterwards, in this same term of July, to wit, on the eighteenth day of the same month, in the year last aforesaid, came the parties by their attorneys; and by consent, Stephen Lindsey, for himself, and as landlord of the tenant Richard Ayres, is made defendant in this suit in the room of the casual ejector Thomas Nokes, for seventy-eight acres in the southwest corner of the survey mentioned in the declaration, extending 118 poles on the Ohio river, and 106 poles back, being the lots numbered two and three in a partition of said survey among the heirs of Johns, made in a suit in chancery in the court of common

pleas of Clermont county, Ohio. And the said Stephen Lindsey confesses the lease, entry, and ouster in the declaration supposed, and agrees to insist upon the title only at the trial; and for plea says he is not guilty of the trespass and ejectment, in manner and form as the plaintiff therein against him complains; and of this he puts himself upon the country, and the plaintiff doth the like; therefore, let a jury come, &c. And by consent, the common order entered during this term, so far as it relates to the said Stephen Lindsey and Richard Ayres, is hereby rescinded; and thereupon further proceedings in the premises aforesaid is continued until the next term of this court. And afterwards, to wit, on the twenty-first day of August, in the year of our Lord one thousand eight hundred and twenty-six, the following order issued out of the clerk's office of said court, to wit:

Circuit court of the United States, seventh circuit, Ohio district.

JOHN STILES, ON THE DEMISE OF THOMAS B. MILLER, *plff.* *vs.* THOMAS NOKES, JOHN HEDGES, DAVID JOHN, AND SOLOMON BECKILHAMER, *defts.* } *July term*, 1826, *Wednesday 12th. Ejectment.*

This day came the plaintiff, by his attorney, and John Hedges, David John, and Solomon Beckilhamer, on whom the notice in this cause, together with a copy of the declaration, has been duly served, as appears by the affidavit of Philo N. White, more than ten days before the commencement of the present term, being thrice solemnly called, came not; nor does he, in any manner, defend this suit; and Thomas Nokes, the casual ejector, being also called, and not appearing, it is therefore ordered that, unless the said Thomas Nokes, or the person or persons under whom he claims, or some or one of them, shall appear here to the declaration aforesaid, at or before the next term, and make himself, herself, or themselves, defendant or defendants in the room of the now defendant, plead not guilty, and confess the lease, entry, and ouster in the declaration supposed, and agree to insist upon the title only at the trial, judgment by default will be entered at the next term against the casual ejector.

[L. S.] Attest, WM. KEY BOND, *Clerk.*

August 21, 1826.

And afterwards, to wit, at the December term of said court, which was begun and held at Columbia on the twenty-fifth day of the same month, in the year of our Lord one thousand eight hundred and twenty-six, comes again into court here the parties, by their attorneys; and also the marshal of said district, who makes return of the aforegoing order, with the following endorsement thereon, to wit:

November 8, 1826.—I have served a copy of the within order on David John, John Hedges, and Solomon Beckilhamer; Thomas Hedges not found.

THOMAS HECKEWELDER, *D. M.*
For William Doherty, Marshal.

And thereupon, by consent, John Hedges, David John, and Solomon Beckilhamer, are made defendants in the room of the now defendant Thomas Nokes, the casual ejector, for all the rest and residue of the land and premises in controversy in this suit, and not included in the consent rule heretofore entered into by Stephen Lindsey, for himself and Richard Ayre; and the said John Hedges, David John, and Solomon Beckilhamer confesses the

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lease, entry, and ouster, in the declaration supposed, and agree to insist on the title only at the trial, and for plea say that they are not guilty of the trespass and ejectment mentioned, in manner and form as the plaintiffs therein against them complain; and of this they put themselves upon the country for trial, and the plaintiff doth the like, &c.; therefore let a jury come, &c.; and thereupon further proceedings in this case is continued until the next July term of said court. And afterwards, to wit, at the said July term of said court, which was begun and held at Columbus on the ninth day of the same month, in the year of our Lord one thousand eight hundred and twenty-seven, come again into court here the said parties, by their attorneys, and by consent is further continued until the next term of said court; at which said next term of said court, being the December term, which was adjourned by the marshal, in consequence of the absence of the Judges of said court, until the next term; at which said next term, being the July term, which was begun and held on the fourteenth day of same month, in the year of our Lord one thousand eight hundred and twenty-eight, comes again into court here the said parties, by their attorneys; and thereupon further proceedings is continued until the next term of said court; at which said next term, being the December term, which was begun and held on the twenty-second day of the same month, in the year of our Lord one thousand eight hundred and twenty-eight, come again into court here the said parties, by their said attorneys; and thereupon further proceedings is continued until the next July term of said court. And now at this term, to wit, the July term of said court, which was begun and held on the thirteenth day of the same month, in the year of our Lord one thousand eight hundred and twenty-nine, come again into court here the said parties, by their attorneys; and thereupon came a jury, to wit: Rezin Bell, William Arnold, William McCausland, John Thompson, Samuel McCord, John Moore, Daniel Black, William Perrine, Augustine King, James McDowell, John McLaughlin, and James Turnbull, who being elected, tried, and sworn the truth to speak upon the issue joined in this cause, returned their verdict in the following words, viz:

We, the jury, find the defendants guilty of the trespass and ejectment in the declaration mentioned, and do assess the plaintiff's damages at one cent. It is therefore considered by the court that the plaintiff recover of the defendants his term yet to come and unexpired in the premises aforesaid, together with one cent, the damages by the jurors aforesaid in their verdict assessed, and also his costs herein expended, taxed at forty-three dollars and eighteen cents; and it is ordered that a writ of possession issue accordingly upon the application of the plaintiff. And thereupon the defendants, by their counsel, tendered their bill of exceptions to the opinion of the court, upon the points upon which the instruction of the court was asked, and prayed that the same might be signed, sealed, and enrolled, and made a part of the record in this cause, which is accordingly done, and which said bill of exceptions is in the words and figures following, to wit:

United States Circuit Court, seventh circuit, Ohio district.—July term, 1829.

LESSEE OF THOMAS B. MILLER, *vs.* STEPHEN LINDSEY ET AL. } *Ejectment.*

The above cause coming on to be tried at the July term of this court, the plaintiff offered in evidence a patent from the United States, bearing date

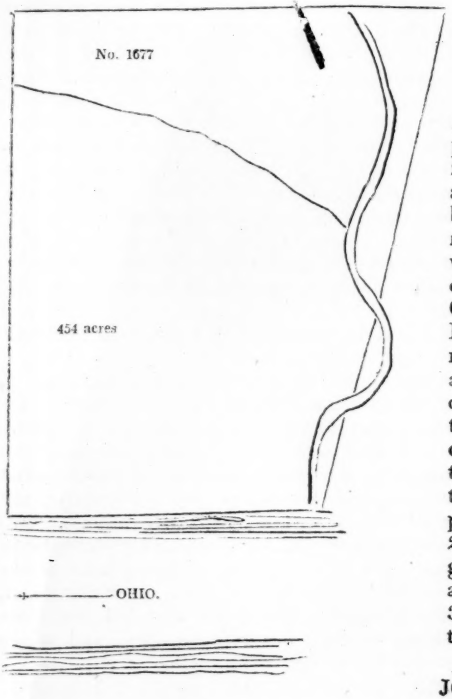
the first day of December, in the year 1824, for the premises in controversy, to the lessor of the plaintiff, and proved that the defendants were in possession of the said premises. The defendants then offered in evidence the copy of a survey, bearing date the 5th of January, 1788, and recorded on the 7th of April of the same year, as by reference to the paper marked A will more fully appear, which was admitted by the court; which said paper marked A is in the words and figures following, to wit:

1788, January 11th. No. 1,677.—Richard C. Anderson enters 666⅔ acres of land, part of a military warrant No. 2,481, on the Ohio river, beginning at the lower corner of George Washington's entry No. 403, running down the river 206 poles; thence North 40 East 308 poles; thence South 50 East 323 poles, to Washington's line, to the beginning.

212¾ acres withdrawn.

Entered—

18 A.



Surveyed for Richard C. Anderson 454 acres of land, part of a military warrant No. 2,481, on the Ohio river, and on the northwest side, beginning at a sugar tree marked M H, and three hoop-woods, at the mouth of Muddy creek, lower corner to George Washington's survey No. 403; running down the river N. 50 W. 200 poles to a sugar tree and two beaches on the bank of the river; thence N. 40 E. 308 poles, crossing a branch at 254 poles, to a hickory and two sugar trees; thence S. 50 E. 280 poles, crossing the creek at 206, poles to a walnut and sugar tree; thence S. 53 W. to and with Washington's line, 316 poles, crossing the creek twice, to the beginning.

JOHN OBANNON, *D. S.*
January 5, 1788.

SAMUEL PLUMMER, } *C. C.*
JOSIAH STOUT, }
EVAN SHELBY, *Marker.*
April 7, 1788.

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AUDITOR OF STATES' OFFICE, OHIO,
Columbus, July 13, 1829.

I, Ralph Osborn, Auditor of the State of Ohio, do hereby certify that the foregoing entry and survey No. 1,677, in the name of Richard C. Anderson, are true and correct copies, taken from the record in my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of office, the day and year aforesaid.

RALPH OSBORN,
Auditor of State.

They then, by their counsel, read in evidence the act of Congress of the third of March, 1807, authorizing patents for lands located and surveyed by virtue of certain Virginia revolution warrants, and the amendatory act of March, 1823, and proved that the survey covered the land in controversy. They then offered in evidence the deposition of James Taylor, marked B, to prove that the defendants had been in possession upwards of thirty years, which was admitted by the court; which deposition, marked B, is in the words and figures following, viz:

LESSEE OF THOMAS B. MILLER,
vs.
STEPHEN LINDSEY, AND OTHERS. } *In the Federal Court of Ohio.*

This is to certify that I am well acquainted with a tract of land on the Ohio river, No. 1,675, of 454 acres, which appears on the record-book of the Virginia military lands to have been entered and surveyed for Richard C. Anderson, beginning at the lower corner of George Washington's survey No. 403, at the mouth of Muddy creek, and extending down the river and back for quantity. Muddy creek is now called nine miles. I settled at Newport in May, 1793, and became pretty well acquainted with that part of the Virginia military district where this tract of land lays, a few years afterwards, as early as the year 1798. I became acquainted with a man by the name of John or Johns, who lived on the said tract of land; and I always understood he held the said land under the said Anderson's claims. The said John or Johns, soon after his settlement on the said tract of land, built a grist mill on the said creek, and occupied it for a number of years; but for some years past it has gone down. I have been frequently at the house of the said John or Johns, during his life; he died, to the best of my recollection, a number of years ago, and I have always understood on this tract of land. I have understood that, at his death, the said tract of land was divided among his children: one of his sons still lives on the said tract of land, and perhaps more of them may do so. Stephen Lindsey, one of the defendants in this cause, lives on the lower end of this tract, and, I understood, claims his land under one of the heirs of the said John or Johns, and has resided on it for several years, I think about four or five. The main river road from Cincinnati up towards Clermont and Brown county, &c., passes through this tract of land, and immediately by the dwelling of the said Johns, deceased, the ancestor of one or more of the defendants, which is still occupied by a tenant of one of the heirs, as I have understood from persons of the neighborhood. I own a tract of land on the Ohio, adjoining the tract below; and I have owned, and still own much land immediately in its vicinity, on both sides of the river Ohio; and am very fre-

quently on them, and frequently pass through the said tract of land now claimed by the heirs of the said John or Johns.

JAMES TAYLOR.

COLUMBUS, *July* 20, 1829.

This deposition is admitted the same as if duly sworn to, and notice given subject to exceptions for incompetency and irrelevancy of its matter.

C. HAMMOND, *att'y for plff.*

The plaintiff, by his counsel, then offered in evidence the deposition of William Selden, marked C, which is in the words and figures following, to wit:

I, William Selden, Register of the land office in and for the State of Virginia, do hereby depose and state, that warrant No. 2,481, which was granted to Lucy Martin, representative of G. Thompson, for 2,666⅔ acres of land, and warrant No. 2,480, which was granted to John Martin, for 200 acres, are the only warrants numbered in the said land office as Nos. 2,480 and 2,481; and that the record of the Virginia military land warrants for the troops both of the State and continental lines is kept in one and the same office, to wit, the office held by this deponent, and in one set of books; and that the warrants are numbered together without regarding whether the warrants be State or continental, so that the number of the last warrant on the books of said office is the number of all the warrants therein, both State and continental, except, in a few instances, wherein double numbers of military warrants have been issued. And I further depose and state, that the annexed certified copies of the aforesaid warrants Nos. 2,480 and 2,481, are true copies from the land office of Virginia.

WM. SELDEN, *Reg. L. O. Virginia.*

Land office military warrant No. 2,480.

To the principal Surveyor of the lands set apart for the officers and soldiers of the Commonwealth of Virginia:

This shall be your warrant to survey and lay off in one or more surveys for John Martin, his heirs or assigns, the quantity of two hundred acres of land, due unto the said John Martin in consideration of his services for three years as a sergeant in the Virginia continental line, agreeably to a certificate from the Governor and Council received into the land office.

Given under my hand and the seal of the said office, this twelfth day of February, in the year one thousand seven hundred and eighty-four.

STATE OF VIRGINIA, to wit:

I, William Selden, Register of the land office of the State aforesaid, do hereby certify that the foregoing is an examined copy from the record thereof, now being and remaining in my custody, by virtue of my office.

Given under my hand and seal of said office, at the city of Richmond, this 24th day of November, 1828.

[L. S.] WM. SELDEN, *Reg. L. O., Va.*

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Land office military warrant No. 2,481.

To the principal Surveyor of the lands set apart for the officers and soldiers of the Commonwealth of Virginia:

This shall be your warrant to survey and lay off in one or more surveys, for Lucy Thompson, legal heir and representative of George Thompson, deceased, her heirs or assigns, the quantity of two thousand six hundred and sixty-six and $\frac{2}{3}$ acres of land, due unto the said Lucy Thompson in consideration of the said George Thompson's services for three years as a lieutenant in the Virginia State line, agreeably to a certificate from the Governor and Council received into the land office.

Given under my hand and seal of the said office, this 12th day of February, in the year one thousand seven hundred and eighty-four.

JOHN HARVIE, *Reg. L. Off.*

STATE OF VIRGINIA, to wit:

I, William Selden, Register of the land office of the State aforesaid, do hereby certify that the foregoing is an examined copy from the record thereof, now being and remaining in my custody by virtue of my office aforesaid.

Given under my hand and seal of said office, at the city of Richmond, this 24th day of November, 1828.

[L. S.] WM. SELDEN, *Reg. L. Off. Va.*

STATE OF VIRGINIA, *City of Richmond,* to wit:

At the land office in the capitol of this State, in the corporation of Richmond, on this twentieth of June, in the year 1829, before me, Joseph Tate, mayor and chief magistrate of the city of Richmond aforesaid, came personally William Selden, of this city, the Register of the land office of Virginia; and after being carefully examined and cautioned, and sworn to testify the whole truth, did write in my presence and subscribe the annexed deposition or testimony; and I certify that the said deponent now lives or resides at a greater distance from the place of trial than one hundred miles, which is the cause of taking this deposition; and that I am not of counsel or attorney to either of the parties, nor interested in the event of the cause. The foregoing deposition is taken de bene esse, at the request of the plaintiff, to be used in an action or suit now pending in the circuit court of the United States for the seventh circuit, next to be held at Columbus, within and for the district of Ohio; in which action or suit, Thomas B. Miller, lessee, is plaintiff, and Stephen Lindsey and others are defendants. The adverse party not residing, nor having any attorney, in my knowledge, residing or being within one hundred miles of the place of taking this deposition, was not notified thereof, and did not attend. In testimony of all which, I have hereunto set my hand, the day and year first above written, and affixed the seal of the corporation of said city.

[L. S.] JOSEPH TATE,

Mayor and chief magistrate of the city of Richmond.

June 20, 1829.

And the paper marked E, which paper is in the words and figures following, to wit:

I do certify that the representative of George Thompson is entitled to the proportion of land allowed a lieutenant of the State line who has served three years.

THOMAS MERIWETHER.

Council Chamber, Feb. 12, 1784.

BENJAMIN HARRISON.

At a court held for Fluvanna county the 5th September, 1782, on the motion of Henry Martin, it appeared in proof to this court that his wife Lucy is the representative of George Thompson, now deceased, who was first lieutenant in the service of the United States, and died in the said service. Ordered that the same be certified to the Register of the land office.

A copy, JNO. TIMBERLAKE, *Clerk.*

Land office military warrant No. 2,481.

To the principal Surveyor of the lands set apart for the officers and soldiers of the Commonwealth of Virginia:

This shall be your warrant to survey and lay off, in one or more surveys, for Lucy Thompson, legal representative of George Thompson, deceased, her heirs or assigns, the quantity of two thousand six hundred and sixty-six and two-thirds acres of land, due unto the said Lucy Thompson in consideration of the said George Thompson's services for three years as a lieutenant in the Virginia State line, agreeably to a certificate of the Governor and Council received into the land office.

Given under my hand and the seal of the said office, this 12th February, in the year 1784.

JOHN HARVIE, *Reg. L. Off.*

I do hereby certify that the foregoing are truly examined copies of the certificate of Thomas Meriwether, former clerk of the Executive Council of Virginia, of the certificate of John Timberlake, former clerk of Fluvanna county, in Virginia, and which certificates are now in the land office of Virginia; and that the foregoing warrant is an examined copy from the register of warrants in the land office of Virginia.

As witness my hand, and the seal of my office hereto affixed, this 2d day of December, 1826.

[L. S.] WM. SELDEN, *Reg. L. Off. Va.*

To prove that the warrant on which the defendant's survey was predicated was issued by the State of Virginia in the year 1784, 12th February, for services performed in the Virginia State line. The date of the entry under which the plaintiff claimed was in the year eighteen hundred and twenty-four. The defendants, by their counsel, objected to the evidence offered by the plaintiff, viz: the papers marked C and E, shewing that the warrant on which the defendant's survey was predicated was for services rendered in the Virginia State line. The court overruled the objection, and permitted the evidence to go to the jury; to which opinion the counsel for the defendants except, and prays that this, his bill, may be sealed, &c. The defendants, by their counsel, then moved the court to instruct the jury

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that, if they believed that the survey under which the defendants claim was founded on the warrant so admitted in evidence by the court, it did not render the survey void; but that the survey and possession, under the acts of Congress referred to, constituted a sufficient title to protect the defendants in their possession. The court refused to give the instruction, and directed the jury, that, if they believed the survey of the defendants was founded on the warrant offered in evidence by the plaintiff, then that the survey was void; and that the survey and entry, together with the possession of the defendants, were no legal bar, under the acts of Congress aforesaid, to the plaintiffs' right of recovery. They further requested the court to instruct the jury, that, if they believed the defendants had the uninterrupted possession of the premises for more than twenty-one years since the commencement of the act of limitations in the State of Ohio, and before the commencement of this suit, that then the defendants had a title by possession, unless the plaintiffs came within some one of the exceptions of the statute. The court refused to give such instructions. They further requested the court to instruct the jury, that, if they believed the defendants were innocent purchasers without notice of the warrant offered in evidence by the plaintiff, that the defendants were entitled to a verdict. The court refused to give such instructions. To which the several opinions the defendants, by their counsel, excepts, and pray that this, their bill, may be signed and sealed. All the evidence offered in this cause is made a part of this bill.

JOHN McLEAN, [SEAL.]
JOHN W. CAMPBELL, [SEAL.]

And afterwards, to wit, on the seventh day of August, in the year of our Lord one thousand eight hundred and twenty-nine, Stephen Lindsey et al. by their attorney, caused the following bond to be filed in the clerk's office of the court aforesaid, in the words and figures following, to wit:

Know all men by these presents, that we, Stephen Lindsey, David John, Lemuel John, and John Wood, are held and firmly bound unto the lessee of Thomas B. Miller, in the sum of one thousand dollars, lawful money of the United States; for the true payment whereof, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this 31st day of July, A. D. 1829. Whereas, at the present July term of the seventh circuit court of the United States in and for the district of Ohio, in an action of ejectment then pending, wherein the lessee of Thomas B. Miller was plaintiff, and Stephen Lindsey was defendant, the said plaintiff recovered the judgment of the said court against the said defendant in the matter aforesaid, on which said judgment the defendant has obtained the allowance of a writ of error from John McLean, one of the Judges of the said seventh circuit court, intending to prosecute the same in the Supreme Court of the United States in due form of law, and for so doing the Stephen Lindsey hath offered the said John Wood to be bound with them as his security, in pursuance of the act of Congress in such case made and provided; now, therefore, the condition of the above obligation is such, that, if the said Stephen Lindsey shall faithfully prosecute this said writ of error to effect; and if, also, in the event of the said judgment being affirmed by the said Supreme Court, he, the said Stephen Lindsey, his heirs, executors, and administrators, shall,

well and truly pay all costs or moneys as may or shall be adjudged against him; then, and in that case, the above obligation to be void, otherwise to remain in full force and virtue.

STEPHEN LINDSEY, [SEAL.]
DAVID JOHN, [SEAL.]
LEMUEL JOHN, [SEAL.]
JOHN WOOD, [SEAL.]

CONSTANTINE JEFFERES.

On the back of the aforegoing bond is the following endorsement, to wit:

I approve of the within bond; let a writ of error issue.

JOHN McLEAN,
4th August, 1829. *Justice Supreme Court U. S.*
W. MINER, *Clerk circuit court U. S. 7th district.*

The United States of America, District of Ohio, set.

I, William Miner, clerk of the seventh circuit court of the United States in and for the district of Ohio aforesaid, do hereby certify the foregoing to be a true transcript of the record, judgment, and proceedings thereon, in a suit determined in said court, in which the lessee of Thomas B. Miller is plaintiff, and Stephen Lindsey et al. defendants, as the same now stands among the files of my office.

In testimony whereof, I have hereunto set my name, and affixed the seal of the said court, this tenth day of December, in the year of our Lord one thousand eight hundred and twenty-nine, and of the independence of the United States of America the fifty-fourth.

[L. S.] Attest, WILLIAM MINER, *Clerk.*

The United States of America—Supreme Court of the United States to John Stiles, on the demise of Thomas B. Miller, greeting:

Whereas Stephen Lindsey, David John, Richard Ayres, John Hedges, and Solomon Beckilhamer, have obtained the allowance of our writ of error to the circuit court of the United States for the seventh circuit and district of Ohio directed, to remove into the said Supreme Court, to be holden at the city of Washington, on the first Monday *in second Monday* in January next, the record of a certain plaint, process, proceedings, and judgment, in an action of ejectment, whereupon the said John Stiles, on the demise of Thomas B. Miller, in that action, lately recorded against the said Stephen Lindsey, David John, Richard Ayres, John Hedges, and Solomon Beckilhamer, judgment and costs, as by the said record, in the said circuit court and district aforesaid remaining, appears, in which said record and proceedings, and also in the rendition of the judgment thereupon, manifest error hath intervened, as by the said Stephen Lindsey, David John, Richard Ayres, John Hedges, and Solomon Beckilhamer, we are informed, and our writ of error granted, issued, and allowed, as aforesaid, for the purpose of correcting the errors aforesaid alleged, if any there be; you are, therefore, hereby commanded and cited to be and appear before the Judges of the said Supreme Court, at the city of Washington, at the next term of said court, to be holden on the first Monday in the month of *February* next,

to have the errors aforesaid corrected, and the judgment of our said Supreme Court thereupon.

Witness the Honorable John Marshall, Chief Justice of the United States of America, this 26th day of August, 1829, and in the 54th year of the American independence.

[SEAL.] JOHN McLEAN,
Justice Supreme Court United States.

Served on Benjamin G. Leonard, the 29th August, 1829.
R. WANE, *Dep. Marshal.*

I acknowledge service of this citation on behalf of the defendants in error.
C. HAMMOND, *att'y for defts. in error.*

Marshall's fees—2 services - - -	$4 00
mileage - - -	5 00
	$9 00

R. WANE, *Dep. Mar.*
For G. Patterson, M.

The United States of America, To the honorable the Judges of the circuit court of the United States for the seventh circuit and district of Ohio, greeting:

Whereas, in the record and process, and also in the rendering judgment, in a certain action of ejectment which was in the said court, between the lessee of Thomas B. Miller, plaintiff, and Stephen Lindsey et al., defendants, manifest error hath intervened, as it is said, to the great damage of the said Stephen Lindsey and others, as by their complaint we are informed, and we being willing that the error aforesaid (if any) be corrected, and full and speedy justice done in this behalf to the said parties; command you, that the record, process, and judgment aforesaid, with all things touching the same, under your seals, distinctly and plainly, without delay, you send and certify to the Judges of the Supreme Court of the United States, on the first day of the next term of said court; so that the judgment aforesaid being inspected, the court may further, for correcting the error aforesaid, do that which of right, and according to law, ought to be done.

Witness the Honorable John Marshall, Chief Justice of the United States of America, this 31st day of July, in the year of our Lord one thousand eight hundred and twenty-nine, and in the 54th year of the American independence.

[L. S.] Attest, WM. MINER, *Clerk.*